Meeting of States Parties

Distr.: General
17 April 2017

Original: English

Twenty-seventh meeting
New York, 12-16 June 2017
Item 10 (a) of the provisional agenda*
Commission on the Limits of the Continental Shelf: information reported by the Chair of the Commission

Letter dated 17 April 2017 from the Chair of the Commission on the Limits of the Continental Shelf addressed to the President of the twenty-seventh Meeting of States Parties

Introduction

1. I wish to inform you, in my capacity as Chair of the Commission on the Limits of the Continental Shelf, about the progress of work of the Commission since the twenty-sixth meeting of the States parties, held in June 2016.

2. The Commission held its forty-first, forty-second and forty-third sessions at United Nations Headquarters, from 11 July to 26 August 2016, from 17 October to 2 December 2016 and from 30 January to 17 March 2017, respectively. Documents CLCS/95, CLCS/96 and CLCS/98 contain a more detailed account of the progress in the work of the Commission during those sessions, in particular with regard to the submissions under active consideration. The present letter focuses on issues of importance for the discharge by the Commission of its mandate under the United Nations Convention on the Law of the Sea.

Consideration of submissions and approval of recommendations

3. During the above-mentioned sessions, the Commission and its subcommissions considered the submissions made by: the Russian Federation, in respect of the Arctic Ocean (partial revised submission); Brazil, in respect of the Brazilian Southern Region (partial revised submission); Argentina (partial revised submission); Uruguay; the Cook Islands, in respect of the Manihiki Plateau; Norway, in respect of Bouvetøya and Dronning Maud Land; South Africa, in respect of the mainland of the territory of the Republic of South Africa; the Federated States of Micronesia, Papua New Guinea and Solomon Islands, jointly, in respect of the Ontong Java Plateau; France and South Africa, jointly, in respect of the area of the Crozet Archipelago and the Prince Edward Islands; Kenya; Mauritius, in the region of Rodrigues Island; Nigeria; Seychelles, in respect of the Northern Plateau Region; France in respect of Réunion and the Saint-Paul and Amsterdam islands; Côte d'Ivoire; and Sri Lanka.

* SPLOS/L.78.

Please recycle

4. The Commission approved five recommendations, namely those with regard to the submissions made by Argentina (partial revised submission); Uruguay; the Cook Islands, in respect of the Manihiki Plateau; South Africa in respect of the mainland of the territory of the Republic of South Africa; and the Federated States of Micronesia, Papua New Guinea and Solomon Islands, jointly, in respect of the Ontong Java Plateau.

5. Additional draft recommendations prepared by two subcommissions were before the Commission at the forty-third session, but the Commission did not approve the draft recommendations with regard to the submission made by Norway and therefore will continue the deliberations on the item entitled "Consideration of the submission made by Norway in respect of Bouvetøya and Dronning Maud Land" at the forty-fourth session. The Commission was not in a position to complete its discussions on the draft recommendations with regard to the submission made by Seychelles and will resume those discussions at the forty-forth session.

6. At the forty-first and forty-third sessions, the Commission heard presentations on new, amended or revised submissions made by several States, namely by Argentina (partial revised submission); Côte d'Ivoire; Denmark, regarding three of its partial submissions, in respect of the southern continental shelf of Greenland, the north-eastern continental shelf of Greenland and the northern continental shelf of Greenland; France, in respect of Saint Pierre and Miquelon; Somalia; and Sri Lanka.

7. The Commission also decided to establish a subcommission for the consideration of the submission made by Portugal, bringing the total number of submissions that are under active consideration to 12.

8. In view of the election of members of the Commission to be held in June 2017 at the twenty-seventh meeting of the States parties to the Convention, the subcommissions that were still in the process of examining submissions completed "handover" documents, with a view to ensuring continuity in their work.

Twentieth-anniversary of the establishment of the Commission

9. To commemorate the twentieth anniversary of its establishment, the Commission convened a half-day open meeting during its forty-third session.[1] At this open meeting, following the opening remarks made by the Chair of the Commission, presentations highlighting the achievements of the Commission and outlining several aspects of its past and present work were made by Galo Carrera, Mazlan Madon and Walter Roest. The Secretary-General of the International Seabed Authority, Michael Lodge, and the President of the Tribunal for the Law of the Sea, Vladimir Golitsyn, also addressed the open meeting, making statements on the relevance and importance of the work of the Commission to their respective bodies. Conveying greetings of the Secretary-General of the United Nations, the Under-Secretary-General for Legal Affairs and United Nations Legal Counsel, Miguel de Serpa Soares, highlighted the scientific and technical complexities of the work of the Commission and stressed the ongoing commitment of the Organization to facilitating the work of the Commission. In doing so, he also expressed his gratitude to the States that made contributions to the two trust funds related to the work of the Commission.[2]

[1] The costs related to the open-meeting and to a reception organized on the occasion of the twentieth anniversary were covered through generous support from Canada, China, Japan, Nigeria and Sri Lanka.

[2] For more information and links to the presentations delivered during the open meeting see www.un.org/depts/los/clcs_new/clcsopen_2017.htm.

Workload of the Commission

10. With respect to the workload of the Commission and its working arrangements, I wish to recall that, since 2013, the Commission has held annually three sessions of 7 weeks each, for a total of 21 weeks a year, including 4 weeks of plenary meetings and 17 weeks of meetings when subcommissions worked simultaneously. Under this arrangement, each member of the Commission was working in at least three subcommissions. This arrangement, which was adopted by the Commission at its thirtieth session (CLCS/76), in response to a request of the twenty-first Meeting of States Parties (SPLOS/229), significantly increased the time that members had to spend at United Nations Headquarters, notwithstanding the fact that there was no substantial change in the working conditions of members of the Commission.

11. As agreed in 2013, the Commission reviewed its working arrangements at its forty-first session. It took into consideration the request made by the twenty-sixth Meeting of States Parties (see SPLOS/303, para. 85), and decided that, in 2017, it would maintain the current pattern of meetings, namely, the Commission and its subcommissions would continue to meet for a total of 21 weeks per year by holding three sessions of 7 weeks each, and that 4 of those 21 weeks would be devoted to plenary meetings (see CLCS/88, para. 13).

12. The implementation of the above-mentioned working arrangement during the current term of office of the Commission has contributed to a significant progress in the work of the Commission. In the past five years, 13 subcommissions have completed the consideration of the submissions assigned to them. For 11 of these submissions, the Commission adopted recommendations. This brings the total number of recommendations to 29, with 12 submissions still under active consideration. The Commission, in its current term, established or reactivated subcommissions for 21 new or revised submissions, which represents an approximate increase of 62 per cent compared with the previous term. Thus, the Commission is pleased to report that, during the current term, it has considered more submissions than during any previous terms of office. This is in line with the analysis that led to the increased number of work weeks in New York. In addition, the previously increasing number of submissions in the queue, for which a subcommission has not yet been established, has continued to decrease in a trend to which I referred already at the twenty-sixth meeting of the States parties. However, the Commission is still faced with a considerable workload in the years and decades ahead. The number of submissions waiting in the queue currently stands at 41, and will certainly increase as the Commission will be receiving: (a) new submissions from States parties for which the 10-year period for the making of a submission has not yet expired; (b) potentially, submissions by future States parties following their ratification of or accession to the Convention; (c) new submissions from State parties that have already submitted preliminary information pursuant to the decision contained in SPLOS/183; (d) revised submissions that have already been the subject of recommendations by the Commission; and (e) submissions from States parties that have made partial submissions only. In this connection, the Commission notes that the pace of examination of the submissions could have been even faster had it not been hampered by a number of factors beyond its control, as outlined below.

13. First, in view of the relatively large number of new members of the Commission following the 2012 election, a certain time was required for the new members to become acquainted with the way the Commission works, as well as with the substantive aspects of the submissions then under active consideration.

14. Second, the Commission could not benefit from full membership. The Commission regrets to note that, for the vast majority of its current term of office, it

has operated with only 20 members and that some of the subcommissions had to be established with only six members instead of seven. Owing to this fact and to the absences of other members, frequently for medical reasons, on a number of occasions, only 19 or 18 members participated in the sessions of the Commission.

15. Third, during the current term, the Commission has dealt with voluminous submissions of considerable scientific and technical complexity requiring extensive deliberations at both the subcommission and the plenary levels.

16. In addition to those factors, certain trends have emerged in the practice of the delegations of submitting States parties when interacting with the subcommissions, which have had a direct impact on the amount of time required for the examination of several submissions. These have included:

(a) The frequent submission of extensive new data and information by the submitting State or amendments to the submission made by the submitting State in the course of the examination of a submission at the subcommission level;

(b) Requests by the submitting State to delay or suspend the consideration of a submission for a period of time to allow for the acquisition of new data and information or the conduct of additional studies;

(c) Requests by the submitting State to reschedule or cancel previously agreed meetings;

(d) Delays in the provision of responses, data and information to subcommissions.

17. Some of the actions mentioned above, especially when taken by the submitting States shortly before a session, led to reduced productivity of the subcommissions concerned and hampered the optimal planning of the work of the Commission, negatively affecting the allocation of time for the consideration of other submissions.

18. One additional factor with an impact on the pace of examination of submissions was the exercise by coastal States of their right to classify material contained in the submission as confidential, pursuant to annex II to the rules of procedure of the Commission. Such a classification does not allow for the consideration of the submissions in their entirety or in parts outside the premises of the Division for Ocean Affairs and the Law of the Sea and thus limits the access to data and information by members to when they are on the premises and to periods when the Commission is in session and only during regular office hours.

Conditions of service

19. Finally, the lack of secure means of communication does not allow members, when not present at United Nations Headquarters, to consider material submitted by States between sessions.

20. In addressing the issues of the conditions of service of the Commission, I would like first to renew the appreciation of the Commission for the work undertaken by the Meeting of States Parties, including through its open-ended working group on the conditions of service of members of the Commission, and the General Assembly. Those efforts led to the recognition by the Assembly, in paragraph 93 of its resolution 70/235, of the need of the members of the Commission for a more suitable working space on the premises within the Division. This subsequently led to improvements that addressed some of the immediate working space needs of the Commission. In this connection, the Commission also expresses its appreciation to the Secretariat for such improvements.

21. As far as any future developments are concerned, I would like to recall that the General Assembly has also recognized that, owing to its exceptional character, the Commission has special requirements, including the need for additional fit-for-purpose working space, adequate technical equipment and climate control, and needs to remain located within the same premises as the Division.

22. The Commission has also taken note of the measures adopted by the General Assembly, in paragraphs 96 to 99 of its resolution 71/257, to address certain other aspects of the conditions of service of the members of the Commission.

23. Regarding medical insurance, I wish to recall the understanding of the Commission that reimbursement of the costs of medical travel insurance for those members who benefit from the trust fund established pursuant to General Assembly resolution 55/7 for defraying the cost of participation of the members of the Commission from developing States in the meetings of the Commission is an interim measure and that a more permanent solution will be proposed in the future. I note that in practice, such reimbursement has been an exception rather than a rule, given the lack of sustainable financing for the trust fund.

24. I would also like to recall that the Commission has consistently reiterated that, when the conditions of service of its members are addressed, no distinction should be made between members of the Commission from developing and developed States. In this regard, I wish to convey the expectation of the members of the Commission that the Meeting of States Parties will continue its deliberations with a view to satisfactorily addressing the other elements related to the conditions of service, such as the potential loss of career opportunities and income while in New York for 21 weeks a year, visits by family members and the high cost of prolonged stays in New York, especially in relation to the effects that those conditions might have on the attendance of the members at all sessions of the Commission (see SPLOS/263, para. 77, SPLOS/140, annex, and SPLOS/259, paras. 25 and 26).

25. Let me briefly address some other aspects that are technical in nature. The technical and hardware facilities available to the Commission appear once again to be on the verge of becoming inadequate. With the progress in the work of the Commission, the increased number of submissions under active consideration and the variety and augmented complexity of scientific methodologies employed by States, the hardware and software requirements to deal with the increasing volume and complexity of data and information considered by the Commission have grown significantly in recent years. I was informed that, to accommodate this significant increase, the secretariat had moved data and information not under active consideration by the Commission to external storage devices kept on site in the Division in order to free up space on the dedicated network drives of the Commission. Keeping such information and data without adequate backups and business continuity plans exposes them to the risk of being lost. The Commission deems it paramount that such records be adequately stored, protected and preserved.

26. With regard to the submissions being actively considered by the Commission, as noted above, a number of submitting States have classified material as confidential, pursuant to annex II to the rules of procedure of the Commission. Access to confidential material is provided by the Secretary-General in accordance with the rules of procedure of the Commission; however, it is essential that systems be in place to monitor access to such material efficiently and securely and to ensure that the confidentiality of electronic data and information is maintained. The Commission trusts that this matter will be addressed appropriately.

27. Another issue of concern is the geographic information system (GIS) software that the Commission uses in its consideration of submissions. According to the information provided by the secretariat, the budget allocated to software licensing

and maintenance remains constant while the costs levied by companies for upgrades and licences continue to increase. As a result, steps may need to be taken to reduce the range of GIS software at the disposal of the Commission in its consideration of submissions, with adverse consequences for those submitting States that have prepared the GIS components of their submissions in a software package that would become unavailable.

Voluntary trust fund for the purpose of defraying the cost of participation of the members of the Commission from developing States in the meetings of the Commission

28. Turning to matters concerning the trust fund for the purpose of defraying the cost of participation of the members of the Commission from developing States in the meetings of the Commission, allow me first to convey again the gratitude of the members of the Commission to States that have made contributions to the fund. Without these generous contributions, a number of members would not have been in a position to attend the sessions of the Commission.

29. At the same time, I would like to reiterate the concerns of the Commission on the status of this trust fund, as illustrated by the fact that, in advance of the forty-second and forty-third sessions, the Commission had no certainty as to whether some of its members from developing countries would be able to travel to attend these sessions, owing to a potential lack of funds. This would have had a direct impact on the advancement in the work, given that a quorum is required to take decisions, in particular those on a number of draft recommendations. Ultimately, last-minute generous contributions to the trust fund enabled the secretariat to make the necessary travel and daily subsistence allowance arrangements and the sessions were held productively. It is not necessary to elaborate further on the negative impact of such uncertainties on the planning of the work of the Commission.

30. These uncertainties persist. According to the information provided by the secretariat, the current balance of the trust fund may not be sufficient to cover the remaining two sessions of the Commission in 2017, unless additional contributions are received. The Commission is of the opinion that a more permanent and dependable source of funding for the Commission and the participation of its members should be considered.

Attendance of members of the Commission

31. Any absence of members of the Commission has direct and immediate repercussions on the work of the Commission and its efficiency. Such absence also increases the workload of the members of the Commission who attend the sessions in full. Therefore, all States that made nominations for the election of 21 members of the Commission in June 2017 should provide their nominees, if elected, with all the support necessary to attend all sessions in full. In this connection, the Commission notes with appreciation that the twenty-sixth Meeting of States Parties requested States parties that would nominate candidates to formally undertake to support their candidates, in accordance with article 2, paragraph 5, of annex II to the Convention, and it is heartened by the fact that all nominations have been accompanied by such an undertaking.

32. In this connection, the Commission recognizes that the working conditions of its members, and in particular the availability of medical insurance, may have a direct impact on the level of attendance during the sessions of the Commission, as described in paragraph 14 above.

Other matters

33. In conclusion, allow me to address matters of a practical nature.

34. First, in the light of the most recent developments, it should be re-emphasized that the Commission, aware of the general interest of the States Members of the United Nations, as well as of States parties to the Convention, in the transparency in the work of the Commission, has repeatedly encouraged States not to restrict the circulation of their communications only to the members of the Commission, to the extent possible.

35. In addition, while waiting for their submissions to arrive at the top of the queue and the subcommissions established for the consideration of those submissions, submitting States should take steps to ensure that the data and information, especially those submitted in a GIS format, are regularly updated in order to ensure that the Commission is able to examine those submissions, once their turn comes, using the latest versions of software and other technical tools available to it.

36. As the term of office of the current members of the Commission ends on 15 June 2017, I would like to reiterate, on behalf of all members of the Commission, our gratitude to the Meeting of States Parties for its continued support for our work. In particular, the unfailing commitment of the Meeting of States Parties to identifying measures to assist the Commission in addressing its considerable workload and examining submissions efficiently and in a speedy manner has been appreciated by the Commission.

37. On behalf of the Commission, I would also like to express gratitude to the Division for Ocean Affairs and the Law of the Sea for the high standard of secretariat services rendered to the Commission.

38. I would like to request that the present letter be circulated as a document of the twenty-seventh Meeting of States Parties.

(*Signed*) Lawrence Folajimi **Awosika**
Chair of the Commission on the Limits of the Continental Shelf